

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2001

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HOUSE BILL 1141

Short Title: Cartways.

(Public)

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Sponsors: Representative Sexton.

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Referred to: Judiciary I.

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April 12, 2001

A BILL TO BE ENTITLED

1 AN ACT TO AMEND THE LAWS RELATING TO THE OPENING OF  
2 CARTWAYS.  
3

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** G.S. 136-69(a) reads as rewritten:

6 "(a) ~~If~~In order to ensure that all landowners who do not have a deeded or  
7 documented easement or right-of-way to a public road shall have a legal means of  
8 obtaining access to that road, if any person, firm, association, or corporation shall be  
9 engaged in the cultivation of any land or the cutting and removing of any standing  
10 timber, or the working of any quarries, mines, or minerals, or the operating of any  
11 industrial or manufacturing plants, or public or private cemetery, or the use of land as  
12 single-family homesteads, or taking action preparatory to the operation of any such  
13 enterprises, to which there is leading no public ~~road~~road, reasonable deeded or  
14 documented easement or right-of-way to a public road, or other adequate means of  
15 transportation, other than a navigable waterway, affording necessary and proper means  
16 of ingress thereto and egress there from, such person, firm, association, or corporation  
17 may institute a special proceeding as set out in ~~the preceding section (G.S. 136-68), and~~  
18 ~~if it shall~~G.S. 136-68. Should it be made to appear to the court necessary, reasonable  
19 and just that such person shall have a private way to a public road or watercourse or  
20 railroad over the lands of other persons, the court shall appoint a jury of view of three  
21 disinterested freeholders to view the premises and lay off a cartway, tramway, or  
22 railway of not ~~less~~more than 18 feet in width, of travel surface or any other minimum  
23 width requested in the petition and found necessary and proper by the court, and not  
24 more than 30 feet in width for cuts, fills, and ditches or cableways, chutes, and ~~flumes,~~  
25 and flumes.

26 If a cartway is granted for the use of one or more single-family homesteads, each  
27 single-family homestead shall consist of at least seven acres of land. Where there exists

1 a private railroad crossing, the private railroad crossing may be used as part of the  
2 cartway established under this Article provided the person, firm, association, or  
3 corporation seeking the cartway agrees to share proportionately with other landowners  
4 authorized to use the crossing the cost of maintaining the private crossing and to protect  
5 and hold harmless the railroad against all liability associated with the crossing, provided  
6 the railroad is being operated in a lawful manner at or in the vicinity of the crossing.  
7 Except as provided in this subsection for the establishment of a cartway over an existing  
8 private railroad crossing, no real estate, right-of-way, easement, leasehold, or other  
9 interest in land which has been condemned by a railroad, or has been obtained for a  
10 railroad's use as a right-of-way, depot, or station house shall be used for the  
11 establishment of a cartway or other use under this Article except by agreement with the  
12 railroad. Should a petitioner seeking a cartway request a new railroad crossing, the  
13 railroad shall negotiate in good faith the location of the new crossing at the requested  
14 location or some other mutually agreeable location. The jury of view shall assess the  
15 damages the owner or owners of the land crossed may sustain thereby, and make report  
16 of their findings in writing to the clerk of the superior court. Exceptions to said report  
17 may be filed by any interested party and such exceptions shall be heard and determined  
18 by the clerk of the superior court. The clerk of the superior court may affirm or modify  
19 said report, or set the same aside and order a new jury of view. All damages assessed by  
20 a judgment of the clerk, together with the cost of the proceeding, shall be paid into the  
21 clerk's office before the petitioners shall acquire any rights under said proceeding."

22           **SECTION 2.** This act is effective when it becomes law.